REASONS FOR A REGISTRY:

Shewing briefly

The great Benefits and Advantages that may accrew to this Nation thereby.

AND LIKEWISE

Reconciling thoſe miſtaken Inconveniences which many have conceived thereof.

By a Well-wiſher to the Publick Intereſt of the Nation.

LICENSED.

Roger L'Eſtrange.

Febr. 4. 167⅞.

LONDON:

Printed for *Charles Harper* at the Flower-de-Luce over againſt S. *Dunſtan's* Church in *Fleetſtreet.* 1678.

REASONS

FOR A

REGISTRY:

Shewing briefly

The great Benefits and Advantages

that may accrew to this Nation thereby.

AND LIKEWISE

Remedying those mistaken Inconveniences

which many have conceived thereof.

Recommended to the Public Interest of the Nation.

Roger L'Estrange.

LONDON:

[illegible] Lucas over

[illegible] Church in Fleetstreet. 1678.

The Preface.

TO premiſe to any how unhappily the ſeveral Purchaſes and Mortgages of Lands in this Nation, are obnoxious to the indirect practices and frauds of ſuch as have occaſion to ſell or mortgage their Lands, is a labour I conceive may well be ſpared; ſince the clamours of too many who have unfortunately ſuffered under thoſe circumſtances, may give us a moſt evident demonſtration thereof. And to enumerate thoſe many Sufferers were as endleſs a task; but becauſe the multiplicity of frauds which have been practiſed about Purchaſes and Mortgages for many years laſt paſt, have made Men weary of dealing in that nature, and our preſent Laws being deficient of a remedy; the miſchief is grown to that height as to become a Diſeaſe almoſt paſt the hopes or poſſibility of a redreſs, we may the more excuſably imitate thoſe Doctors,

who in desperate diseases adventure to apply new and unusual remedies. I have therefore presumed to offer some Reasons for a Registry, *by shewing that in this extream mischief which we at present labour under; the same being rightly setled and established in this Nation, may in all probability prove an effectual remedy of these present misfortunes; and have endeavoured not only to shew the real benefits and advantages of a* Registry, *but likewise to reconcile it to the conveniencies of most Mens concerns; that so it may the more readily be imbraced, most men being averse to any remedy they stand in need of, though never so requisite and wholsom, if it be not equally pleasant and easie. The Subject of the ensuing Discourse, may be comprehended under these Considerations: That the Advancement of Trade is the great concern of this Nation.*

That Trade cannot be compleatly advanced but by establishing so secure a Fund, that Mony may be safely lent on all necessary occasions.

That

That no other Security but the Lands of this Nation can eſtabliſh ſuch a Fund.

That the Lands of this Nation cannot become ſuch a Security but by a Regiſtry.

That a Regiſtry may be made practicable in this Nation, without any real inconveniencies attending it.

In all which particulars I have affected brevity as much as it's poſſible, my utmoſt attempt, being only to draw the ruder lineaments of that piece, of which I could wiſh in time to ſee a fair Picture.

There may poſſibly be other Objections againſt this preſent deſign than what are comprized in the enſuing Diſcourſe, but I am not conſcious that any are more material. I ſhall not flatter my ſelf that this contrivance muſt needs take effect, for I am ſatisfied there is a time for all things, which is above our power and knowledge to aſcertain; and publick concerns have yet a more critical fate than private; like Columbus *his diſcovery of the* Indies, *which*

which obtained the credit to be received in its due time, though that before that, it were wholly slighted and rejected; nor can any man assure himself what effect his persuasions shall have over a multitude, towards whom nothing is esteemed to be well offered, that hath not the luck to be well received.

However I shall humbly hope that these present endeavours may set other heads on work; and what I here present in its first Idea I shall recommend their better Judgments to bring to perfection, which is properly the work of experience, time, and well disposed minds.

REASONS FOR A REGISTRY:

RIches and Plenty being variouſly diſpenced to Mankind, according to the ſeveral rules and meaſures of Property, peculiar to each Nation, common experience confirms to us this truth; that every Nation abounds more or leſs in thoſe felicities, by how much the more conveniently their Laws and Practices, are ſuited to the moſt agreeable Method, of transferring thoſe Properties from one Man to another.

For where there is no rule of transferring a Property in any Nation, ſave that of Inheritance or Free-gift, it muſt neceſſarily follow, that nine parts in ten in ſuch a Nation, muſt be but little better than Slaves, and wholly dependent upon the reſt; ſo that let a Man be never ſo ingenious and induſtrious, yet if he have not the good fortune to be born to an Eſtate, it is great chance if he have opportunity or power of acquiring one.

And ſuch a Nation can ill hope either to enlarge, or improve their Dominions, where thoſe few that have Eſtates, reſt contented under the enjoyment

thereof, and those who have nothing, are as wholly destitute of the means, or hopes to acquire any thing whereby to exercise their industry; so that it is evident, that Traffick and Commerce is not only a *medium* of acquiring a Property in any thing, but one of the most eminent and advantagious means whatsoever, of advancing and establishing the Wealth and Plenty of a Nation, and the most equal and just measure of dispensing the same to every individual man, in proportion to his qualifications of industry and ingenuity, and by distributing and dispersing the same into many hands, like the Sun that shines on all, becomes thereby a more communicative good.

Nor is it the only advantage of Trade, that by this means the Wealth of a Nation is transferred from hand to hand in a peaceable way, and Mens necessary occasions are mutually supplied, without the more inhumane contrivances of rapine and force which always end in Confusion.

But the improvement and promotion of Trade, and Commerce is the greatest security of a Nation, from forreign injuries and invasion: For let a Nation be never so rich by Nature; yet if that Nation do not distribute those Riches in such Artificial ways of Trade, whereby the advantages thereof, may accrew to its own Natives; some neighbouring Nation may by the advantages of Traffick and Commerce, exhaust those Riches into their own Dominions; and such a Nation will soon grow insolent and injurious, where they have once obtained to Wealth and Power, sufficient to support their Ambition.

An instance of this may be considered in the *Dutch* Nation, who solely out of the advantages of a well managed Trade, have raised themselves from an obscure Original, in the space of one hundred years,

to

to that height of Ambition and Wealth, as to confront their most Powerful Neighbours:. And it may be presumed that if this Nation had not been more conversant of late years in Trade than formerly, the natural Strength and Riches of this Island, would hardly secure us from the greater Powers, and Advantages of any trading Nation.

The right use and management therefore of Traffick and Commerce, being of so great moment, the next consideration may be how to endeavour and promote the improvement thereof.

'Tis true, that divers Conjectures have been made, touching the several defects and remora's of this so much desired advancement of Trade; and amongst others there have been two Causes more principally assigned as the great impediments of our Trade.

The first, whereof is the want of People here in *England*; for that is observable, the most populous places, are most wealthy. But I conceive, this is rather an Effect then a Cause; since it may be a question, whether Trade does not rather increase People, than People increase a Trade? and experience does evince, that so soon as Trade is withdrawn from any great City, it soon ceases to be populous.

A second Conjecture has been, for that the dissenters from the Church of *England*, being a great part of the trading and wealthy People of this Nation, have thought it policy sometimes to discourage the publick Trade, and by pretences of withdrawing their Stocks in discontent, to force a compliance with their Principles. But these disgusts are rather an occasional mischief, and rarely happening, than any continued inconvenience, and therefore cannot be esteemed an essential impediment of Trade: so that

theſe reaſons, may rather be thought Circumſtances of the decay of Trade, than principal Cauſes of the ſame.

The Trade of this Nation conſiſting in buying and ſelling, from one another, the ſeveral Commodities that each perſon hath occaſion for, the ſame is carried on, either for ready Mony or Credit; for Money at ſome reaſonable forbearance, and ſeldom or never by exchange of one Commodity for another; ſo that Mony is the general and common Standard, and value of all Commodities, in Traffick or Commerce; and if ſuch Money or a Credit equivalent to it be wanting, at ſuch times as any Commodity is expoſed to ſale, the great advantages of Trade are wholly loſt, and the Commodity is ſure to be tranſported to ſome better Market,

The life of all Trade, conſiſting in the advantage of commanding ready Mony, which increaſes and multiplys each Trade, by giving it the more eaſie and ſpeedy diſpatch and return, which can never be truly effected, but where the Coin of a Nation is fixed under ſuch circumſtances, that it may be readily procured on all reaſonable occaſions.

Hence it is that a Common-bank hath been ſo much eſteemed in all Nations, and though it hath been ſubject to many caſualties, by being raiſed upon an uncertain foundation: Yet it is obnoxious to every Mans experience, that the great advantage of commanding ready Mony as occaſion ſhould require, did tempt many Men to adventure their Monys in ſuch banks, though contrary to the rules of common prudence and experience; and ſome underſtanding perſons have thought it a matter of ſo great importance, to have a ſtanding Bank for the convenience of Trade, that rather than fail, they would ſet up an imaginary Bank, and make payments by aſſignments

of

of Paper, charged upon a ſuppoſed fund, that in truth has no real exiſtence; others have thought that a convenient Method of taking Pawns, for ſecurity of Mony to be lent, might prove a very apt expedient to ſerve this great occaſion of Trade.

Now I ſhall not here diſpute the conveniences, or inconveniences of their Methods and Contrivances, but make this uſe of them, to ſhew that a certain and conſtant convenience, of raiſing and transferring the Mony of the Nation, from one man to another, is eſteemed the moſt ready and apt expedient whatſoever for advancing the Trade of the Nation.

For indeed nothing can more promote the Trade of a Nation, than by contriving that all the Coin thereof, ſhould be continually paſſing from one to another, in the diſpoſal whereof, there is always ſomething of gain, both parties having their ends in Traffick, though in a different reſpect.

Yet ſince all Men cannot be Traders, but that the impediment of birth, in ſome who are above it, of Age in others are paſt it, of Sex in others, and in ſome that of Sloth and Idleneſs, render them uncapable of diſpoſing their Mony by way of Commerce; it follows then of conſequence, that unleſs ſome proper encouragement be found out, for ſuch perſons to lend their Mony to others, that can and may Trade by the benefit thereof; ſo much Trade will be wanting in the Nation, by how much Mony lies hoarded up in Cheſts, upon the ſeveral impediments prementioned.

And if it be ſo requiſite that the Coin of the Nation, ſhould be continually transferred from hand to hand, it is of equal neceſſity, that there ſhould be ſome conſtant ſecurity eſtabliſhed, whereby Men ſhould be encouraged to lend that Mony to others, which they know not how to make uſe of themſelves.

Some

Some men have indeed fancied, that by bringing down the intereſt of Mony, it would conduce much to the advancement of Trade, by diſperſing the Coin into many hands; becauſe ſuch as have occaſion to borrow Mony, would more freely be induced thereto from the eaſineſs of intereſt: and thoſe who are unwilling to lend their Mony at ſo low an intereſt, would be tempted to purchaſe Lands, and by either of thoſe means the Mony would be ſo diſperſed into ſeveral hands; that it would anſwer the end ſo much intended. But we ſhall find that barely the bringing down of intereſt, will not effect this deſign, for where there is not a certain ſecurity, either in lending Mony or purchaſing Lands; neither the readineſs in the borrower, nor the ſeeming advantage of a Purchaſe, will perſuade Men too eaſily to part with that Mony, which poſſibly has coſt them a great deal of labour and pains in the gathering together.

So that notwithſtanding the great advantage of Trade, whereby all perſons are under a poſſibility of improving their Fortunes, in proportion to their Parts and induſtry; yet it is evident that Trade and Commerce, cannot be carried on to the greateſt advantage, without eſtabliſhing ſuch ſecurity, for the transferring of Mony from one hand to another, that all Men as occaſion ſhall require, may readily and freely, without the apprehenſions of being cozened and cheated, advance their Mony to be lent out, and diſpoſed in the way of Trade. That which remains therefore is to diſcover ſuch a convenient *medium* for a Fund, or ſecurity as may properly reconcile the difficulties already premiſed.

If then we ſhall but conſider the Lands of this Nation, that are in continual manure and occupation, and from the conſtant product and advantage thereof, how really and truly the ſame are in themſelves valuable;

ble; it may reaſonably be preſumed that no Fund or Bank whatſoever can ſo naturally and conveniently ſecure the Mony, that may occaſionally be lent for advancement of Trade, and other neceſſary purpoſes, as the Lands and real inheritances in this Nation, if the transferring the ſame from one man to another, may but be brought under ſuch a convenient method, as to become a practicable and unavoidable Security.

And by this means we may probably ſupply thoſe former defects in this Nation.

Firſt, of want of People; for ſince nothing in general can draw People, from the ſtrange allurements of their own native Countrys, ſo much as the unſatiable love of Gain, there will need no ſtronger invitation, for all ſuch perſons than by adapting our Laws to the nature of Trade, and ſo far ſecuring them in their Purchaſes, that common prejudice and miſapprehenſions, being firſt removed from ſtrangers, by a reaſonable and certain aſſurance of reaping and enjoying the fruits of their labours, they will more eaſily be induced to adventure their fortunes, in a plentiful and pleaſant Country.

For we dayly ſee that thouſands of People of different Manners and Religions, do compaſs Sea and Land, to Traffick amongſt all Nations, whereſoever they can but hope at leaſt to make an advantagious return of their labours and hazards.

And ſurely ſuch perſons may as eaſily be encouraged, to ſettle in this Nation, by an undoubted Security of peaceably enjoying and deriving to their Poſterity, whatever they ſhall acquire by their induſtry and labour. And that other contrivance of reducing the intereſt of Mony, will prove wholly ineffectual, without ſecuring to Men the Purchaſes of their Lands.

For admit that the intereſt of Mony were reduced

ſo

ſo low, that Men had rather buy Lands than lend their Mony at uſe; yet what encouragement can Men have in the proſecution thereof; where the title of ſuch Lands cannot be ſecured to the Purchaſer or Lender?

And it may be a Queſtion, whether by continuing the intereſt of Mony higher in this, than in other Nations, it may not be an unapt *medium* to draw Forreign Coin into this Kingdom, if it may be more ſecurely and more profitably lent, or diſpoſed than in other Countrys?

This ſuppoſition may ſerve to anſwer, and prevent the other defects of Trade ariſing from diſſenting Brethren. For if Coin may be drawn from Forreign parts, by the more ſecure and profitable advantages of diſpoſing of it here, the diſſenting Party being a generation of People that love Gain, as well as Godlineſs, when they find themſelves diſappointed of their ſullen project, and the Trade of the Nation carried on without them, will not be ſo injurious to themſelves, as not to fall a Trading as faſt as their Fellows: So that to all thoſe that ſhall conſider, how great a part of the Treaſure of this Nation, is rendred uſeleſs and unprofitable to us, for want of a due and proper means, and encouragement to imploy ſuch Treaſure in the hands of others, whoſe induſtry prompts them to a continual improvement thereof; it cannot but ſeem reaſonable, if not neceſſary, that ſome apt encouragement for the promoting ſo great advantages, ſhould be eſtabliſhed in this Nation: and though the particular intereſt, or the perverſneſs of ſome, the neceſſities, or downright knaveries of others may make them clamorous againſt ſo juſt a deſign; yet upon examination they will not be found ſo numerous or conſiderable, as that their pretences ought to obſtruct ſo publick a good. Having therefore determined where the Diſeaſe lyes,

the

the next labour will be to apply the remedy; the difficulty whereof, will conſiſt in finding out ſuch practicable and eaſie Methods of transferring, or mortgaging all Lands and freehold Inheritances, whereby Men may be incouraged from the Security and conveniency thereof, to lend their Mony upon all reaſonable occaſions, which otherwiſe would be hoarded up in Cheſts, and too truly exemplifie to us that Maxim, *De non exiſtentibus & non apparentibus eadem eſt ratio.*

I ſhall therefore humbly offer a ſhort Model, how the ſame may be effected; and though I am convinced that it will be obnoxious to many objections; and that to make it perfect, is only a work of time and experience: yet where there is no beginning, there can be no end, and if my more imperfect endeavours in this ſhort eſſay, may have the good fortune to conduce ſomewhat towards the promoting ſo neceſſary a concern, I ſhall obtain the utmoſt of my hopes.

The way therefore may be this, to make it a Law; That all perſons whatſoever, who have or ſhall have any Title or Incumbrance, that is chargeable upon any Eſtate real, ſhall Regiſter the ſame by a day certain, or elſe the Party neglecting to Regiſter ſuch his Title or Incumbrance ſhall be concluded the ſame by all the ſubſequent Purchaſers *bona fide*, or to the like effect.

But becauſe two great prejudices lie in the way, it is requiſite that an accommodation be found out to reconcile them.

Firſt, That it would be a vaſt charge for Men to be obliged to Regiſter the ſeveral Deeds, that they may have concerning the Titles of their Eſtates.

Secondly, that by this means, the private concerns of one Mans Eſtate, may be publickly expoſed to the

knowledge of any other that will but peruſe the Regiſtry.

Which inconveniences may notwithſtanding be prevented, by the manner of contriving ſuch a Regiſtry, for by extracting only the principal heads of ſuch Deeds, the ſecreſie of the concern may be ſecured, and the charge likewiſe avoided, *viz.* by a *Memorandum* only that a Deed was executed bearing Date ſuch a day, *&c.* concerning ſuch Lands (naming the parcels as in the Deed) in the Pariſh and County of, *&c.* Parties to the Deed ſuch, *&c.* Witneſſes ſuch and ſuch, *&c.* or to this effect.

Now it cannot but be acknowledged, that ſuch a Regiſtry will neither be chargeable nor liable to diſcover Mens particular concerns; ſince ſuch a Deed, as to all ſtrangers that ſhould peruſe the Regiſtry, may be ſuppoſed a Deed of Truſt, or a Joynture, a Deed of Settlement, or a Mortgage, as well the one as the other, ſo long as the Uſes and Covenants there are not Regiſtred; and you may as ſoon diſcover the Uſes of a Fine or Recovery, by finding them on Record, as diſcloſe the Uſes and Contents of any Deed, by finding it Regiſtred in ſome ſuch manner as is premiſed; nor needs there any further charge or trouble in this particular, ſince ſuch a *Memorandum* will be an effectual Landmark, for the Purchaſer or Lender, who is thereby ſufficiently forewarned, not to treat with any perſon that will not procure him the peruſal of ſuch Deeds as ſhall be mentioned in the Regiſtry.

But yet to make a Regiſtry practicable, there remain ſome other difficulties to be reconciled; and the firſt, is the Regiſtring of what is paſt; for if Men ſhould be bound to Regiſter whatever incumbrances they have chargeable upon any Eſtate, or elſe to be concluded their right againſt all Purchaſers, *bona fide* they may

may perchance be compelled to a duty which is not in their power to perform.

For ſuppoſe an Infant, whoſe Writings are in the hands of his Truſtees, and he be ignorant of his own right, how can it be expected, that ſuch an one ſhould be able to obſerve the Rules of a Regiſtry; and ſurely it would be very ſevere, for ſuch an Infant to ſuffer through the default of his Truſtee. The ſame difficulty may be ſuppoſed upon all perſons beyond the Seas, and all other perſons who having loſt their Evidences, or that they are detained from them, or otherwiſe being ignorant of their own Title, cannot perform the duty required, till perhaps it be too late.

To this Objection, it cannot but be acknowledged, that the particulars are true, and that theſe inconveniences may poſſibly enſue: yet if we ſeriouſly conſider the merit of the Cauſe, we ſhall find that more perſons daily ſuffer by Purchaſing bad Titles, than are likely to ſuffer by not knowing of their Titles time enough to Regiſter them, and in ſuch caſe ſurely the multiplicity of ſufferers muſt needs balance the conſideration; nor is it equal Juſtice that the Nation ſhould labour under a perpetual inconveniency, rather than hazard the poſſibility only of a temporary miſchief to fall upon ſome few.

For if we ſhall conſider that all Infants have their Friends and Guardians; and all Perſons beyond the Seas their Truſtees; we cannot but ſuppoſe that Men will be juſt and honeſt to their Friends and Relations, in ſo indifferent a concern as Regiſtring an Incumbrance, eſpecially if ſuch were obliged to make double ſatisfaction, ſo far as they ſhould be proved to be privy to the fraud.

And for many Titles which perhaps may have lain

mant a great while; it is not always becauſe Men are ignorant of ſuch their Titles, but becauſe they wait ſome fitter opportunities to proſecute their deſigns, a convenience which the Law is no way obliged to ſupport; and for ſuch as have loſt their Evidences, or that they are detained from them, they may notwithſtanding ſerve a turn in ſuch Caſes of neceſſity, and prevent all Purchaſers from dealing concerning any Land, that is under a legal Conteſt, by entring a Caveat in the Regiſtry, which may juſtly be allowed for that purpoſe.

And though the objection lyes in the Caſe of Fines, how neceſſary the wiſdom of the Law thought it, to make an eſpecial proviſion for Infants, Feme's Covert, and Perſons beyond the Seas; yet I conceive the Objection is not parallel to the preſent concern: for though a Fine be indeed matter of Record, whereof all Men are preſumed to take notice, yet in fact we know, that even wiſe and underſtanding Men have been ſo little converſant amongſt Records, as to have been ſurpriſed in paſſing of Fines, to the loſs of their Eſtates: The difficulty whereof ariſes from the uncertainty of the Party that ſhall levy ſuch Fine, or the occaſion why, or time when any one ſhall be induced ſo to do, whereby a Man that is capable of being prejudiced by a Fine, is bound to ſtand upon his guard perpetually, being wholly ignorant againſt whom, or when to defend himſelf. So that from the many and difficult circumſtances required in the prevention of a Fine, the ſame is much more ſurprizing than that of a Regiſtry, which requires a duty to be performed but once, and whereof all Men may have a ſufficient warning to diſpatch at their peril within a time limited and certain.

And I preſume upon the ſame conſideration, the Acts of Parliament for the rebuilding the City of *London*,

London, have concluded the rights of Infants, Feme's Covert, and Perſons beyond the Seas, equally with all other perſons.

Becauſe the Affairs to be then ſettled, falling under one final determination, the preſent miſchief that might have poſſibly accrued to Infants, or Feme's Covert, being an evil much inferior to a continued inconvenience, could not be eſteemed of moment ſufficient to obſtruct ſo publick a concern; however the experimental ſucceſs of that fact may beſt ſecure our fears, ſince we have not heard of any inconvenience ſuſtained upon account of that Act, from the defects of Infancy or Coverture, or of being beyond the Seas, the reſpective intereſt of all ſuch Perſons in ſo notorious an emergency being undoubtedly ſecured by their Relations and Friends.

But if we ſhould at the worſt, ſuppoſe ſome one ſo unfortunate, as by not knowing of his Title to any ſecurity, time enough to Regiſter it according to Law, to be therefore debarred of his intereſt, you muſt at the ſame time ſuppoſe a ſubſequent Purchaſe or Mortgage of the ſame ſecurity, for a valuable conſideration, without notice of any prior incumbrance; and then the Queſtion will be, which of theſe two ſhall deſerve your pity? The firſt, who had a Power and means to preſerve his Security, but was neglectful thereof? Or the latter, who uſed all poſſible means within his Power to ſecure himſelf, and could not have been prejudiced, but by the neglect of the former? And if the publick intereſt may decide the Queſtion, 'tis ſurely the concern of the Nation to incourage Purchaſers, and to promote the Security thereof.

A ſecond Objection is againſt a Regiſtry for the future in the Caſe of Wills and Teſtaments, for we find that many Wills are ſuppreſt for divers years;

and

and if the Heir at Law ſhould at the mean time, ſell or diſpoſe any Eſtate deviſed by Will, the Title to ſuch an Eſtate by Will, not appearing in the Regiſtry; the Parties concerned in ſuch Wills would be defrauded of their Rights, and the whole deſign of the Teſtator, though never ſo reaſonable and juſt, would be totally fruſtrated, which miſchief though it be not ſo capable of an immediate remedy, yet a little qualification may make it equal practicable, by allowing half a year, or a twelve months time to produce ſuch Will; and it is but forbearing to deal with any Man, who claims as Heir at Law, till ſuch time be expired, after the death of his Anceſtors. And if Mens Wills be but ſolemnly executed, they will not be ſo eaſily ſuppreſſed to ſerve a turn; and when Men know their Wills muſt be produced in half a years time, or the like; or otherwiſe prove ineffectual, they will make it their care to commit the cuſtody thereof, to ſuch Perſons whoſe concerns it ſhall be to produce them in due time.

And for all ſuch Wills as are clandeſtinely executed, or ſuppreſſed beyond the time limited, what prejudice is it if the Law ſhall ſo far diſcountenance ſuch Wills, as to put the Deviſees to ſeek their remedy againſt the Heir at Law; and not againſt a Purchaſer if any happen.

And though the Will of a Teſtator, ought as much as may be from the example of times, to be reſpected and ſupported; yet where that cannot be done but by a publick inconveniency, in prejudice to real Purchaſers, the fault may more reaſonably be imputed to the neglect of ſuch Teſtator, who was not in his life time ſufficiently careful, in contriving ſuitable and ſufficient means for the ſafety, and preſervation of ſuch his Will and Teſtament: Nor is this the firſt ſtrained conſtruction in the Law, to avoid an incon-

inconveniency, ſince the Law permits Men to cut off Entails, though never ſo expreſly contrary to the intent of the Donor, in the Caſe of Recoveries; and that too by a ſtrange kind of imaginary Juſtice; that ſuppoſes the party wronged, may recover in value of a third Perſon, whom all the world knows to be worth never a groat.

And why all this violence upon Reaſon, but becauſe the Law abhors Perpetuities, from the great inconveniences that attends them, and chuſes to apply an unuſual remedy, rather than labour under ſo fatal a diſtemper: And I am ſure in ſuch Recoveries, there is neither proviſion for Infants, nor Feme's Covert, but all impediments, are intirely removed without reſpect of perſons; and it is hard to diſtinguiſh the difference of Perpetuities, where Men lay their Mony up in Cheſts, becauſe they know not ſafely where to diſpoſe it.

And where Men are inforced perpetually to keep their Lands to themſelves, becauſe they lie under ſuch diſparaging circumſtances, that no other man dares venture to buy or lend upon them: Or on the other hand, that Land ſhould be ſo ſettled and entailed as not to be cut off or diſpoſed, which the Law ſo much abhors; the miſchief of the one, and of the other being ſo exactly parallel.

A third Objection is, that ſuch a Regiſtry would be no ſecurity againſt Statutes, Judgments, and Recognizances. To which it is anſwered, that ſome method may be contrived likewiſe for the Regiſtring of them, in ſuch manner, that upon an eaſie ſearch a Man may diſcover any ſuch Statutes, Judgments, and Recognizances.

Though poſſibly it might be more convenient, that no Judgements, Statutes, or Recognizances, ſhould be executed upon any other Lands, or Freehold Inheritance

tance, than the Party is poſſeſſed of or intereſted in, at the time when any Execution or Extent ſhall be made upon ſuch Lands or Inheritances, admitting they be not fraudulently diſpoſed, to avoid ſuch Extents, ſince Statutes, Judgments and Recognizances, are a ſecurity that many Men are betrayed into, without a ſufficient apprehenſion of the ſtrictneſs and ſeverity of the Obligation, to their utter ruine; whilſt others more crafty, but leſs honeſt, can firſt take up Mony upon that ſort of Security, and then ſell Lands to ſuch as are never able to diſcover the former incumbrances. What need is there then that ſo exquiſite a temptation, and covert for knavery, ſo troubleſome and difficult for Purchaſers to diſcover, ſhould be ſo far favoured in the Law, to the continual promotion of ſuch fatal miſchiefs?

Nor is there truly any Injuſtice to the Obligee in this Caſe, for if the Obligor or Cognizor, have any Lands at the time of acknowledging ſuch Statute, Judgment, or Recognizance;

He may require a Mortgage of ſuch Lands for his ſecurity, and if there be no Lands, then the Party has the ſame ſecurity at any time after, as he had at the time of ſuch Statute, Judgment or Recognizance acknowledged; and it is unreaſonable the Law ſhould provide contingent ſecurities for any Man to the manifeſt damage and detriment of the Nation.

There are other difficulties which may be objected againſt a Regiſtry, but they are of more private concern, and though the common fate of all changes and alterations muſt neceſſarily work a prejudice to ſome particular perſons; yet I doubt not but the moſt material Objections may be reconciled to the preſent deſign.

And firſt, it is ſaid that if all Men by vertue of a Regiſtry

Regiſtry, and could lend their Mony upon real Security, no Man would lend upon perſonal; and conſequently the Merchant, who hath ſo many reaſonable opportunities of taking up Mony upon Credit, would loſe the convenience of ſerving his neceſſary occaſions, the advantages whereof accrewing to them upon their bare Credit, every days experience ſufficiently confirms to us how conſiderable the ſame are.

But this is not the Intereſt of the Nation, that the Credit of Tradeſmen, ſhould be greater than the returns of their Trades; and ſo much they will hardly in any caſe want, ſince it is certain that there is more Mony in the Nation, than Men have occaſion to take up at intereſt upon Land-Security.

And we find by experience that ſome Men out of affection, or other particular and private reſpects, will lend their Mony in Trade to their Friends, and Relations; upon perſonal, when at the ſame time they might lend it to others upon real Security, whereof we may be ſatisfied from hence, that in former times, when Mortgages were unqueſtionable Securities, and Purchaſes leſs obnoxious to thoſe many Cheats and Devices, that are now too commonly put in practice concerning them; yet the Tradeſman never wanted Credit to raiſe Mony, proportionable to the return of his Trade, ſufficient to ſerve his real and juſt occaſions; and if Mens Credits be but proportionable to their induſtry and ſtock, they may carry on a much more certain, though perhaps a leſs extravagant Trade; and poſſibly at this day, the extraordinary Credit of ſome, who have thereby taken up more Mony at Uſe, than ever they intended to pay, may have made others fare the worſe in point of Credit, who have

had very juſt and reaſonable occaſions of taking up Mony, and would have been truly punctual and careful in the repayment thereof. Some Men are likewiſe apprehenſive, that it would be a great prejudice to the Country Gentlemen, by diſcovering what Mortgages or other incumbrances are chargeable upon their Eſtates, by the diſcredit whereof they are rendred uncapable of ſeveral advantages, which otherwiſe they might enjoy.

But ſurely this is a great miſtake as to all honeſt Gentlemen; (and 'tis to be hoped the Law will make but one ſort of proviſion for Knaves) for the reputation of a Country Gentlemans being in Debt is at this day ſo fatal upon him from the uncertain conjecture to be made, how far that Debt may extend, that though in truth it may be but for a very indifferent ſum of Mony, that it ſhall be difficult for ſuch a Perſon to raiſe five hundred pounds, that in reality may be able and ſufficient to give Security for five thouſand pounds, by reaſon of the great ſuſpicion Men have over the integrity of any Man, that is never ſo little in Debt; an inconvenience which has no ſmall misfortunes attending it; ſince it is from hence that Procuration and Continuation is ſo frequently paid, ſo many journys, expence of time and charges in enquiring after the reputation of the Parties, in being ſatisfied of Titles produced, and ſettling of Writings by Counſel, in being ſubject to all the ſevere Covenants, Conditions and collateral Securities, that the wit of a Man can impoſe upon them, to which may be added the difficulty of redeeming a forfeited Mortgage without a *Chancery* Suit or two, and the intereſt in the mean time ſhall ſwell up the Debt, ſufficient to balance the Security. Now if the excellent temper and invincible patience, not to ſay infatuations of ſuch worthy

thy Gentlemen, can support them to undergo and acquiesce in such incomparable hardships, I must needs pronounce them happy Men; or otherwise, I cannot believe they can too highly esteem the advantages of a Registry, which not only supplies those many defects to them, but in a greater respect may advance their particular interests, for from hence it might happen that Lands would not be so great a Drug, if they might but easily and safely be transferred from one to another, because many from the health and tranquillity of a Country life, would bestow their Mony and time upon Lands, and the improvement thereof, who at present are forced to imploy their Effects in another Current, for want of due opportunities to improve the same in the Country; and beside a Registry would have this peculiar advantage to prevent the forging of Deeds, which I refer to common experience, how fatal it hath been to many Estates.

I have been more particular in these instances relating to Country Gentltmen, because I fear the misapprehensions which they have had over the conveniencies or inconveniencies of a Registry, hath been the great obstruction hitherto of putting the same in practice.

A third care remains to be taken of those that lend their Mony out at interest, who can ill indure that all Mortgages being Registred, it should thereby be known what Mony is constantly put out at interest; and the lenders thereof become obnoxious to contribute towards all publick Charges: And certainly 'tis but equal Justice they should, for if a Registry be more particularly introduced for the Security and encouragement of those who have occasion to dispose their Mony at interest, they may well be contented to pay a little for their conveni-

ence: But to make the accommodation more univerſal than ſo, we may conſider in this Caſe that there is no danger of ſuch terrible diſcoveries.

For if a Regiſtry may be eſtabliſhed in ſome ſuch Method as hath been already premiſed, the Contents of their Deeds will not thereby be diſcovered to any but parties and privies, which is a ſufficient *ſalvo* for all the fears and jealouſies, as well of the Borrower as the Lender.

As for the great clamour of Innovation, I doubt not but ſome formal Wiſeacres, out of the abundance of their politick prudentials, will be ready to lay this terrible ſtumbling-block in the way, but I ſhall labour to anticipate their pretences with the authority of the Learned Lord *Bacon* in his Eſſays, whoſe words are theſe; "Surely every Medicine is an in-"novation; and he that will not apply new Medi-"cines muſt expect new evils; for time is the grea-"teſt Innovator. And if time of courſe alter things "to the worſe; and Wiſdom and Counſel ſhall "not alter them to the better, what ſhall be the "end? It is true that what is ſettled by Cuſtom, "though it be not good, yet at leaſt it is fit; and "thoſe things which have long gone together, are "as it were Confederate among themſelves; where-"as new things piece not ſo well; and though they "help by their utility, yet they trouble by their "inconformity; Beſides they are like Strangers, "more admired but leſs favoured. All this is true, "if time ſtood ſtill, which contrariwiſe, moveth "ſo round, that a froward retention of Cuſtom is as "turbulent a thing as an Innovation; and they "that reverence too much Old times, are but a "ſcorn to the New.—— The ſame reaſon may juſti-fie the practice of all times, in whatſoever parti-cular Mens manners have grown corrupt, to eſta-bliſh

bliſh apt and proper remedies for redreſs of the ſame.

And in ſome Caſes very extraordinary and ſevere Laws have been enacted, ſuch is the Statute of Bankrupts; which notwithſtanding in favour of Trade is daily put in practice with a general conſent and approbation; and the late Act againſt Frauds and Perjuries, may be an inſtance how neceſſary it is, as occaſion ſhall require, to make an alteration in the Laws; for it is an old truth that, *Tempora mutantur, nos & mutamur in illis.*

And it is of neceſſity to the welfare of a Nation, that new Laws ſhould be enacted ſo often as Men ſhall introduce new and unwarrantable practices.

"When all Eſtates were Fee-ſimple (ſays my Lord "*Coke* in his firſt Inſtitutes) then were Purchaſers ſure "of their Purchaſes, and Creditors of their Debts; "and for theſe and other like Caſes, by the wiſdom "of the Common-Law, Eſtates of Inheritance were "Fee-ſimple; and what contentions and miſchiefs "have crept into the quiet of the Law, by theſe fet-"tered inheritances (ſpeaking of Eſtates tail) daily "experience teacheth us. So that in the opinion of that learned Judge, it was no ſmall part of the wiſdom of the Law, to ſecure Men of their Purchaſes or Debts, to which purpoſe the Law was careful to inſtitute that formal Ceremony of Livery and Seiſin in the transferring any inheritances, that Men at all times might have ſufficient notice, into what hands the property of ſuch inheritances, ſhould at any time be changed.

I have therefore laboured in theſe preſent endeavours to purſue the ſame reaſon of our Common-Law, but with this difference only, that the iniquity and cunning of our latter times, having made ſo many deviations and digreſſions from the candor and integrity

grity of the former I have been forced to propose new and more effectual remedies against the insufferable mischiefs of Mens fraudulent practices and contrivances;

And therefore I shall humbly hope it may well become the Honour and Justice of our Lawgivers, to limit Men in the disposal of their Estates to such Rules and Methods, as may be expedient and conducing to the Weal publick.

FINIS.

Some Books Printed for, and are to be sold by *Charles Harper* at the *Flower-de-Luce* over against St. *Dunstans-Church* in *Fleet-street*.

THe History of the *Grecian* War, written by *Thucydides*, and translated out of *Greek* into *English* by *Tho. Hobbs* of *Malmsbury*, in Fol.

Feltham's Resolves, Fol.

Camden's Elizabeth, Fol.

The Lord *Hobarts* Reports, with additions in Fol.

Machiavels Discourses upon the first Decade of *Titus Livius*, to which is added his *Prince*, translated out of *Italian*, in Octa.

The *Florentine* History in eight Books, By *Nicolas Machivel*, translated out of *Italian*, in Octa.

Marcus Aurelius Antoninus, The Roman Emperor, his Meditations concerning himself, treating of a Natural Mans happiness, wherein it consisteth, and of the means to attain unto it, in Oct.

Remains concerning *Britain*, By *William Camden* King at Arms, in Oct.

Wingate's Abridgment of all the Statutes in force and use.

Bishop *Andrews*'s Devotions.